

## **ADMINISTRATIVE PANEL DECISION**

Syngenta Participations AG v. Takashi Shimura  
Case No. D2022-3552

### **1. The Parties**

The Complainant is Syngenta Participations AG, Switzerland, internally represented.

The Respondent is Takashi Shimura, United States of America (“United States”).

### **2. The Domain Name and Registrar**

The disputed domain name <snycgta.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 26, 2022. On September 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 26, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent (Privacy Service Provided by Withheld for Privacy ehf, Iceland) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 18, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on October 18, 2022.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 14, 2022.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on November 18, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant is Syngenta Participations AG, a Swiss Corporation of Basel, Switzerland, a global, science-based agtech company with 30,000 employees in 90 countries dedicated to the purpose of bringing plant potential to life.

In 1999, the Complainant registered the trademark SYNGENTA worldwide and currently owns numerous registrations, including the following:

-International Registration No.732663, for SYNGENTA, registered on March 8, 2000;

-United States Registration No. 3036058 for SYNGENTA, registered on December 27, 2005.

The Complainant also owns domain names comprising the trademark SYNGENTA, such as <syngenta.com> and <syngenta.org>, both registered in 1999.

The disputed domain name <snygenta.com> was registered on August 23, 2022, and resolved to a pay-per-click site with fortune teller online links at the time of filing of the Complaint.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant argues that the disputed domain name is a clear typo variation of its well-known mark, since the only difference between is the inversion of the letters "n" and the letter "y" in the first syllable, which do not change the optics of the Complainant's trademark.

The Complainant claims that the Respondent has no affiliation with the Complainant nor is the Respondent authorized to use the Complainant's registered trademark. In addition, the Complainant states that the disputed domain name is not being used in a *bona fide* offering of goods or services or a legitimate noncommercial or fair use, since it is resolving to a pay-per-click site with fortune teller online links such as "divination"; "fortune teller online"; "sustainability goals" and "clairvoyance free talk" in German.

According to the Complainant, the Respondent registered and is using the disputed domain name in bad faith and attempting to trade off a well-known mark to divert Internet traffic for commercial gain.

The Complainant says that on August 30, 2022 it sent a notification to the Respondent in an attempt to solve the conflict and did not receive a response, which confirms the bad faith.

Finally, the Complainant requests the transfer of the disputed domain name.

##### **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## 6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

The evidence presented in the Complaint demonstrates that the Complainant is the owner of trademark registrations for SYNGENTA worldwide.

The disputed domain name is confusingly similar to the Complainant's trademark SYNGENTA. Indeed, the inversion of the letter "n" with the letter "y" does not prevent a finding of confusing similarity with the Complainant's trademark, since the Complainant's trademark remains recognizable in the disputed domain name.

Previous UDRP panels have consistently held that a domain name is identical or confusingly similar to a trademark for purposes of the Policy when the domain name "consists of a common, obvious, or intentional misspelling of a trademark" (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.9).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain name is confusingly similar to the Complainant's trademark.

### B. Rights or Legitimate Interests

The Respondent has not submitted a response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademark or to register a domain name containing the trademark SYNGENTA.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is also no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. Instead, the Complainant showed evidence in the Annex 5 to the Complaint that the disputed domain name resolves to a pay-per-click site with fortune teller online links such as "divination"; "fortune teller online"; "sustainability goals" and "clairvoyance free talk" in German.

The Panel finds that the above use of the disputed domain name, which incorporates a misspelled version of the Complainant's trademark, does not correspond to a *bona fide* use of the disputed domain name under the Policy.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

### **C. Registered and Used in Bad Faith**

The trademark SYNGENTA was duly registered by the Complainant in several different jurisdictions and has been used for years. Also, the Complainant registered different domain names containing the trademark SYNGENTA, including <syngenta.com>, which resolves to its official website. All the registrations predate the registration date of the disputed domain name.

The disputed domain name represents an intentional misspelling of the Complainant's mark and the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant's mark is very well known globally and it is clear to the Panel that the Respondent knew about the Complainant and its trademark rights at the time of the registration of the disputed domain name and registered it with the obvious intention of gaining financial advantage.

The disputed domain name that reproduces the distinctive mark SYNGENTA simply inverting the letter "n" with the letter "y" from the trademark is undoubtedly suggestive of the Respondent's bad faith. It does not seem to make any sense for the Respondent to register the disputed domain name, except to mislead potential clients of the Complainant. Therefore, this Panel finds that the Respondent has intentionally attempted to cause confusion with the Complainant's trademark by misleading Internet users into believing that the disputed domain name belongs to or is associated with the Complainant.

This Panel finds that the Respondent's attempt of taking unfair advantage of the trademark SYNGENTA for commercial gain as described in paragraph 4(b)(iv) of the Policy has been demonstrated.

Moreover, the Respondent has chosen not to respond to the Complainant's allegations. In these circumstances, and as found in the panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#), "the failure of the Respondent to respond to the Complaint further supports an inference of bad faith".

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name was registered and is being used in bad faith.

### **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <snygenta.com> be transferred to the Complainant.

*/Mario Soerensen Garcia/*

**Mario Soerensen Garcia**

Sole Panelist

Date: December 1, 2022.